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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,550	09/22/2005	Dirk Bassiere	10191/4076	1183

26646 7590 10/25/2010  
KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

EXAMINER
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LOUIE, WAE LENNY

ART UNIT	PAPER NUMBER
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3661

MAIL DATE	DELIVERY MODE
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10/25/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,550	<b>Applicant(s)</b> BASSIERE ET AL.	
	<b>Examiner</b> WAE LOUIE	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22-48 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 22, 26, 40 and 41 disclose a prioritization method but fails to tie such prioritization to a particular machine to perform this processing method. Independent claims also fail to disclose any tangible output other than **selecting the request command**, where the request command is not defined or how it is related to the particular machine. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shultz et al (7,269,482).

Regarding applicant claim 22, 26, 33, 40-41 Shultz et al discloses a system and method for:

**sorting a list having the plug-ins according to a degree of a rising priority or a falling priority, so as to provide a sorted list** (col. 11, lines 8-65, trigger

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condition example; to prioritize items and screens on the display based on the trigger conditions);

**processing the sorted list sequentially, beginning with the one plug-ins having a highest priority** (col. 11, lines 8-50, trigger condition example);

**ending the processing of the list as soon as one of the plug-in sensors includes a request command** (col. 11, lines 8-50, trigger conditions are set by the system designer to warn the driver of abnormal or potentially dangerous conditions that occur in the vehicle; for example display device 104, 112, display gauges); **and**

**selecting the request command** (col. 11, lines 8-50, “display manager selects graphic components to draw based on priorities and transition rules to create one or more screens”).

Shultz is geared to an in-vehicle information system and software framework that generates displays based on the priority of the sensors and gauges and the condition of the vehicle. Shultz is silent concerning **a prioritization method for prioritizing sensor plug-ins for coordinating powertrain control of a motor vehicle**. It would have been obvious to one of ordinary skill in the art at the time of invention to use Shultz priority of sensor plug-ins for display for coordinating powertrain control since Shultz framework allows for integration of information from disparate technologies and sources into a coherent system without requiring expensive, lengthy software redevelopment to accommodate these differences (col.1, lines 36-40). Though Shultz does not disclose powertrain, the prior art does disclose engine control modules. Shultz is motivated by the fact that this vehicle information system provides virtually infinite variety of

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information systems can be constructed from libraries of modular components without requiring customized programming (col.13, lines 46-61).

Regarding applicant claims 23-25, Shultz discloses request command is stored and routed on;

optimization criteria (efficiency), identification number and position in the various lists for processing (col.7, lines 15-39, data warehouse, for example the applications may interact with the data warehouse to obtain values such as speed in mph without knowing which specific interface and/or protocol was used to obtain the information... agree to name of data source in the data warehouse and place data into the data warehouse).

Regarding applicant claims 27-31, Shultz discloses determining minimum and maximum and an average request command; request command of the plug-ins are for engine and braking system including one of a braking intervention (col. 11, lines 8-col.12, line 15, Trigger condition Example).

Regarding applicant claims 33-39, Shultz is silent concerning ACC request, driveability strategy request and a shift strategy request, Shultz is motivated by the fact that this vehicle information system provides a wide variety of information systems can be constructed from libraries of modular components without requiring customized programming (col.13, lines 46-61). Shultz also provide a trigger condition that can affect different systems based on the data collected. It would have been obvious to one of ordinary skill in the art to utilize Shultz's modular nature to collect data to trigger any number of requests including ACC, driveability strategy and shift strategy requests.

### ***Response to Arguments***

Applicant's arguments with respect to claims 22-48 have been considered but are not persuasive. In regards to Shultz being silent concerning **a prioritization method for prioritizing sensor plug-ins for coordinating powertrain control of a motor vehicle**. It would have been obvious to one of ordinary skill in the art at the time of invention to use Shultz priority of sensor plug-ins for display for coordinating powertrain control since Shultz framework allows for integration of information from disparate technologies and sources into a coherent system without requiring expensive, lengthy software redevelopment to accommodate these differences (col.1, lines 36-40). Though Shultz does not disclose powertrain, the prior art does disclose engine control modules. Shultz is motivated by the fact that this vehicle information system provides virtually infinite variety of information systems can be constructed from libraries of modular components without requiring customized programming (col.13, lines 46-61).

Because the term plug-in interpreted with broadest possible interpretation may mean any number of subsystem or submodule it is recommended to more clearly define "sensor plug-ins".

In regards to the 101 rejection, it is recommended that the method be tied to a machine or processor as well as having an output. The current claims include **"selecting the request command"** without disclosing how exactly the request command is related to said machine or processor.

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to WAE LOUIE whose telephone number is (571)272-5195. The examiner can normally be reached on M-F 0700-1530.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wae Louie/  
Examiner, Art Unit 3661

/Thomas G. Black/  
Supervisory Patent Examiner, Art Unit 3661